

GREGORY M. TERRELL,) Case No.: 5:13-cv-04616-PSG
)
Plaintiff,)
v.) **ORDER DENYING PLAINTIFF’S**
) **MOTION TO APPEAL IN FORMA**
) **PAUPERIS**
NAVAL MEDICAL RESEARCH CENTER,)
et al.,) **(Re: Docket No. 16)**
)
Defendants.)

Under 28 U.S.C. § 1915(a)(3), an “appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” In other words, if the district court determines an appeal is not taken in good faith, the court may deny the IFP application. Courts

² See Civil L.R. 7-2(c) (“Unless excused by the Judge who will hear the motion, each motion must be accompanied by a proposed order.”). Defendants filed their proposed order, *see* Docket No. 12, as required along with their motion to dismiss, *see* Docket No. 11.

1 have determined that the term “good faith” means “frivolous.”³ If the appeal as a whole is
2 frivolous, the IFP application should be denied.⁴

3 Here, Terrell has appealed a proposed order, not an order of this court. On that basis the
4 court finds Terrell’s application premature and frivolous. The court therefore DENIES Terrell’s
5 IFP application.

6 **IT IS SO ORDERED.**

7 Dated: December 10, 2013

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10 PAUL S. GREWAL
11 United States Magistrate Judge

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United States District Court
For the Northern District of California

³ See *Morris v. Lewis*, Case No. 4:10-cv-5640-CRB-PR, 2012 WL 1549535, at *3 (N.D. Cal. Apr. 30, 2012) (quoting *Ellis v. United States*, 356 U.S. 674-75 (1958)) (finding an appeal to be frivolous where it had no valid grounds on which it was based and equating “frivolous” to mean not “taken in good faith”).

⁴ See *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (holding that 28 U.S.C. § 1915(a) requires IFP status to be authorized for an appeal as a whole and not on a piecemeal basis).